IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

LA.App..No. 114 of 2003()

LAR.322/1982 of III ADDL.SUB COURT, ERNAKULAM
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APPELLANT: RESPONDENT

STATE OF KERALA

BY GOVERNMENT PLEADER SRI K.V.MANOJ

RESPONDENT: CLAIMANTS

PALACE ADMINISTRATION BOARD,
TRIPUNITHURA

BY ADV. SRI.JOSEPH FRANKLIN
SMT.NIMMI FRANKLIN

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 25/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A.No.114/2003 & Cross-Objection

Dated: September 25, 2007

JUDGMENT

Harun-Ul-Rashid, J.

This land acquisition appeal is filed by the State against the judgment and decree in LAR No.322/1982 on the file of the III Addl. Sub Court, Ernakulam.

2. An extent of 55.60 Ares of land comprised in Sy.No.723/3 of Ernakulam village, Kanayannur taluk was acquired from the claimant for the purpose of constructing the High Court Judges' Quarters. S.4(1) notification was published for the last time on 21.3.1978. The land acquisition officer granted land value at the rate of Rs.21,900/- per Are as against the claim of Rs.37,500/- per Are.

3. The claimant examined PWs.1 to 12 and Exts.A1 to A10 are marked. Exts.C1 and C1(a) commissioner's report and sketch are also marked.

4. After referring to the documents produced as Exts.A1 to A10, the reference court held that Exts.A1 to A5 and A7 to A10 documents cannot be relied on for granting enhancement. Regarding Ext.A6 document the reference court held that the acquired land was much superior to Ext.A6 land. Ext.A6 land had the frontage of a lane whereas the acquired land had road frontage on three sides at the time of acquisition. The court also found that the acquired land is situated in a better locality. The Reference Court worked out the centage value of Ext.A6 land at Rs.13,636.36 per cent/Rs.33695/- per Are. The court, finding that the acquired land is more valuable than Ext.A6 land, fixed the land value at the rate of Rs.33,695/- per Are in parity with Ext.A6 land, together with the statutory benefits.

5. In the appeal filed by the State, the learned Government Pleader contended that the land value fixed by the land acquisition officer was in accordance with the market value at the time of S.4(1) notification and that the value was fixed after perusing the documents and evidence and therefore the grant of land value at the rate of Rs.33,695/- per Are is exorbitant and therefore requested this court to restore the land value awarded by the land acquisition officer. We have gone through the evidence on record and find that the land value fixed by the Reference Court on the basis of Ext.A6 document is just, fair and reasonable. We find no reason to interfere with the land value fixed by the court below based on sound reasonings.

6. The cross-objection filed by the respondent claiming additional land value also is not sustainable for the reason that the fixation of land value by the court below is only fair and reasonable.

In the circumstances, we confirm the judgment and decree passed by the court below and dismiss the land acquisition appeal and the cross-objection. It is needless to say that the claimant is entitled to interest on solatium.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE.

mt/-

I.A.No.74/2003 in
LAA No. 114 of 2003

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Dismissd.

25.9.2007 Id/- KURIAN JOSEPH , Judge
Id/- HARUN-UL-RASHID, Judge